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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,375	03/17/2004	Gerald Francis Barnes	10555	3810

7590 06/10/2005

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EXAMINER

GUADALUPE, YARITZA

ART UNIT PAPER NUMBER

2859

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/802,375	BARNES ET AL.	
	Examiner	Art Unit	
	Yaritza Guadalupe McCall	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Objections***

1. Claim 10 is objected to because of the following informalities:
  - a. Claim 10 recites the limitation “the toner agitator further comprises at least one finger comprising a first finger portion extending toward the outlet end, a third finger portion extending toward the inlet end, and a second finger portion connecting the first finger portion and the second finger portion”. These limitation is confusing since it is not clear how the second finger portion could be connecting the first finger portion and the second finger portion. It appears that said second finger portion should connect the first and third finger portions. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international

application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 13 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Patterson et al. ( US 6,647,235 ).

With respect to claim 1, Patterson et al. discloses a device comprising a toner replenisher ( 20, see figure 2 ) for an electrographic imaging machine (10), comprising a replenisher housing defining a toner passage ( See figure 2 ), an agitator drive shaft ( 35 ) extending into the replenisher housing, a rocking mechanism ( See Column 4, lines 25 – 31 ) connected to the agitator drive shaft, and, a toner agitator ( 32 ) mounted to the agitator drive shaft within the toner passage, the toner agitator comprising a plurality of fingers ( 32a, 32b ) extending toward the inlet end.

In regards to claim 2, Patterson also discloses a toner replenisher wherein the toner agitator comprises a first agitator body defining at least one of the fingers, and a second agitator body defining at least another of the fingers ( See Figure 4, showing the fingers on opposite sides of the shaft ).

Regarding claim 3, Patterson also discloses a toner replenisher wherein the toner agitator comprises a first agitator body defining at least one of the fingers, and a second agitator body defining at least another of the fingers, the first agitator body and the second agitator body being spaced from and opposing each other (See Figure 4 ).

With regards to claim 4, Patterson also discloses a toner replenisher wherein the toner agitator comprises a first agitator body defining at least one of the fingers, and a second agitator body defining at least another of the fingers, the first agitator body and the second agitator body being spaced from and opposing each other, and further comprising an agitator base connecting the first agitator body and the second agitator body.

In regards to claim 5, Patterson further teaches a toner replenisher wherein the toner agitator comprises a first agitator body defining a plurality of the fingers, and a second agitator body defining another plurality of the fingers, the first agitator body and the second agitator body being spaced from and opposing each other ( See Figure 4 ).

Regarding claim 6, Patterson et al. also discloses a toner replenisher wherein the toner agitator comprises a first portion that defines a plane, at least one of the fingers extending from the first portion and defining an axis at an angle to the plane ( See Figure 7 ).

With respect to claim 7, Patterson et al. further shows a toner replenisher wherein the toner passage comprises a sloped wall ( 22 ), and the angle extends the at least one of the fingers toward the sloped wall, since some if the fingers ( 32b ) shown by Patterson are angled as well.

Regarding claim 8, Patterson et al. further discloses a toner replenisher wherein the toner agitator comprises a first portion that defines a plane, at least one of the fingers extending from the first portion and defining an axis at an angle to the plane, another of the fingers extending from the first portion and defining an axis parallel to the plane ( See Figure 7 ).

In regards to claim 9, Patterson et al. shows a toner replenisher wherein the toner agitator comprises a first portion that defines a plane, at least one of the fingers extending from the first portion and defining an axis at an angle to the plane, and, the toner agitator comprises a second portion that defines another plane, at least another of the fingers extending from the second portion and defining an axis at an angle to the plane.

With regards to claim 10, Patterson et al. also teaches a toner replenisher wherein the toner agitator further comprises at least one finger comprising a first finger portion extending toward the outlet end, a third finger portion extending toward the inlet end, and a second finger portion connecting the first finger portion and the third finger portion ( See Figure 7 ).

Regarding claim 11, a toner replenisher method for an electrographic imaging machine, comprising the steps of rocking a toner agitator ( See Column 4, lines 27 – 29 ) disposed within a replenisher housing by rotating an agitator drive shaft extending into the replenisher housing, the replenisher housing defining a toner passage ( 22 ), wherein a toner agitator ( 32 ) is mounted to the drive shaft (35), and the toner agitator comprising a plurality of fingers ( 32a, 32b ) extending toward the inlet end will be met during the regular operation of the device disclosed by Patterson et al.

In regards to claim 12, Patterson et al. discloses a toner replenisher ( 20 ) for an electrographic imaging machine ( 10 ), comprising a replenisher housing defining a toner passage ( 22 ) comprising an inlet end; an agitator drive shaft (35) extending into the housing, a toner agitator ( 32 ) mounted to the drive shaft ( 35 ) within the toner passage, and, a funnel ( See Figure 3 ) disposed at the inlet end and comprising an inlet mouth that matches a toner bottle mouth and an outlet mouth smaller than the inlet mouth.

With respect to claim 13, Patterson et al. further teaches a toner replenisher wherein the funnel is a separate piece placed in the inlet end.

Regarding claim 16, Patterson discloses a toner replenisher ( 20 ) for an electrographic imaging machine ( 10 ), comprising a replenisher housing defining a toner passage ( 22 ) comprising an inlet end; an agitator drive shaft ( 35 ) extending into the housing, a toner agitator ( 32 ) mounted to the drive shaft within the toner passage, the toner agitator comprising a

plurality of fingers ( 32a, 32b ) extending toward the inlet end; and, a funnel ( See Figure 3 ) disposed at the inlet end and comprising an inlet mouth that matches a toner bottle mouth and an outlet mouth smaller than the inlet mouth.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14, 15 and 17 - 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patterson et al. ( US 6,647,235 ).

Patterson et al. discloses a device as stated in paragraph 3 above.

Patterson et al. does not disclose the inlet end mouth that does not match the toner bottle as stated in claim 14. Patterson et al. does not disclose the use of a pair of seals as stated in claims 15 and 17 - 18.



Regarding claim 14: Patterson et al. discloses a toner replenisher having a funnel placed in the inlet end, the inlet end defining an inlet end mouth that matches the toner bottle mouth. The use of the particular type of funnel claimed by applicant, absent any criticality, is considered to be nothing more than a choice of engineering skill, choice or design because 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as a funnel is provided in order to provide a surface to facilitate the toner passage, as already suggested by Patterson et al., 2) the funnel claimed by Applicant and the funnel used by Patterson et al. are well known alternate types of funnels which will perform the same function, if one is replaced with the other, of providing a surface that facilitates the toner passage, and 3) the use of the particular type of funnel by Applicant is considered to be nothing more than the use of one of numerous and well known alternate types of funnels that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to provide facilitate the toner passage through its surface as already suggested by Patterson et al.

With regards to claims 15, 17 – 18 and 20 : Official notice is taken with respect to the use of a pair of seal around the inlet mouth of the funnel, since it is very well known in the art to use seals or rings when connecting surfaces that will transport fluids. Thus, to include a pair of seals would have been obvious to a person having ordinary skill in the art at the time the invention was made since the device would be prone to leaks in the absence of some sort of seal or an alternate means for sealing, such as elastomeric gaskets.

In regards to claims 19, Patterson et al. teaches a replenisher assembly (20) for an electrographic imaging machine ( 10 ), comprising a toner replenisher defining a toner passage ( 22 ) comprising an inlet end; a toner bottle ( 18, see Column 4, line 12 ) defining a toner bottle mouth attached to the inlet end ( 21 ); a toner flow restrictor ( as suggested in column 1, lines 46 – 50 ) comprising a gap adjacent the toner bottle mouth between the toner bottle and the toner replenisher, since the union between the surfaces will inherently result in a gap, and, a seal outside the toner flow restrictor between the toner bottle and the toner replenisher.

### *Conclusion*

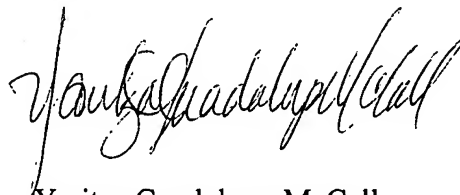
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered of relevance to the present application.

- b. Kalyandurg et al. ( US 5,229,823 )
- c. Fedder ( US 4,452,174 )
- d. Caudill et al. ( US 4,304,273 )
- e. Shoji et al. ( US 6,125,243 )
- f. O'Brien ( US 6,466,749 )

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Yaritza Guadalupe-McCall', is positioned above the printed name.

Yaritza Guadalupe-McCall  
Patent Examiner  
Art Unit 2859

YGM  
June 9, 2005